

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORIGINAL SIDE

INCOME TAX APPEAL NO.279 OF 2002

The Chief Commissioner of Income Tax
Nashik-2.

Appellant

vs.

Prajakta Marbles & Tiles, Nashik

Respondent

Mr.Vijay Kantharia with Ms. S. V. Bharucha i/b. M/s.
H.D. Rathod for the appellant.

**CORAM : R. M. LODHA &
J.P. DEVADHAR, JJ**

DATED : 16th August 2004

P.C.

The assessee suffered penalty of Rs.14,425/- under section 271(1)(c) of the Income Tax Act at the hands of the assessing officer. The appellate authority confirmed the said penalty. Aggrieved thereby the assessee went in appeal before the Income Tax Appellate Tribunal. The Tribunal relied upon the decision of the Supreme Court in the case of CIT v. Prithi Pal Singh, 166 CTR (SC) 187 and set aside the order of penalty.

2. The Central Board of Direct Taxes vide instruction dated 27th March 2000 issued to all Chief Commissioners of Income-tax/Directors General of Income-tax has instructed that inter alia the appeal under section 260A of the Income Tax Act will be preferred only in cases

where the tax effect exceeds Rs. 2 lacs. Apparently, in the present case, the tax effect is far below the monetary limit prescribed by the Central Board of Direct Taxes.

3. In Commissioner of Income-tax v. Camco Colour Co., 254 ITR 565 the Division Bench held that where the appeal has been preferred by the revenue in contravention of the instructions issued by the Central Board of Direct Taxes, such appeal cannot be entertained.

4. The appeal is, accordingly, not maintainable and is dismissed.

(R.M. LODHA, J.)

(J.P. DEVADHAR, J.)